

Remarks

Applicant respectfully requests further examination and reconsideration in view of the above amendment and the arguments set forth fully below. There is no new matter contained in the claims as amended. Support for the above amendments can be found in the Detailed Description of the above-captioned application, the Figures, and particularly in Figures 2A and 4B.

The undersigned gratefully thanks the examiner for her careful comments during the telephonic interview on or about October 27, 2006. During the interview, we discussed certain proposed amendments to the claims which were acknowledged to distinguish over the cited references. The amendments above include the discussed amendments. The examiner advised that an update search would likely be required.

Rejections Under 35 U.S.C. § 103(a)

U.S. Patent No. 2,630,912, to Warner, "Sterilized Toothbrush Container"

Claims 1, 6-9, 19-20, 24-27, and 46-50 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 2,630,912 to Warner et al. (Hereinafter "Warner"). Applicants respectfully traverse this rejection because Warner would not have made it obvious to one skilled in the art at the time of the invention, to make a cosmetic brush with all the claim limitations present in the disclosed invention as currently amended.

One basic criteria to establish a prima facie case of obviousness is that the prior art reference must teach or suggest all the claim limitations of the present invention. Here, the Applicant points out that Warner does not disclose the limitations present in claims 1, 19, and 46.

First, Warner does not disclose "[a]n apparatus for resisting the growth and spread of contaminants on a cosmetic brush", with "a crimp integrally formed from contaminant resistant material, wherein the crimp holds the bristles to the handle portion, and wherein the bristles extend longitudinally from the crimp parallel to the length of the handle portion."

In the Office Action in **Paragraph 3**, the Examiner correctly states that Warner discloses a *toothbrush* container. The common understanding of a toothbrush, as well as the description

set forth within the specification of Warner, is a brush with bristles that extend substantially perpendicularly from the length of the handle portion. Claim 1 of the present invention, as currently amended, claims a brush with bristles that extend longitudinally from the crimp parallel to the length of the handle portion and therefore, claim 1 is allowable over Warner. Claims 3-4, 6-9 and 38 are dependant on claim 1 and all contain the above limitation by implication and therefore claims 3-4, 6-9 and 38 are also allowable over Warner.

Second, Warner does not disclose an apparatus for bacteria reduction with an endcap with “at least one outwardly extending protrusion”, wherein “the at least one outwardly extending protrusion makes contact with the inside of the enclosure to ensure that when the cosmetic brush is entirely within the enclosure the cosmetic brush is not in contact with an inner surface of the enclosure.”

In the Office Action under the **Response to Arguments** section, the Examiner states, without any structural evidence from the specification given to verify the assertion, that Warner is configured such that the brush is not in contact with the inner surface of the enclosure. Since no structural configuration has been disclosed by Warner, the Applicant contends that it would not have been obvious to one skilled in the art to combine the Sterilized Toothbrush Container in Warner with at least one outwardly extending protrusion to ensure that when the cosmetic brush is entirely within the enclosure the cosmetic brush is not in contact with an inner surface of the enclosure.

Claim 19 of the present invention contains such a limitation as currently amended and claims 22 and 24-27 all contain the limitation by implication. Therefore, the Applicant respectfully argues that claims 22 and 24-27 are all allowable over Warner.

Finally, Warner does not disclose an apparatus for bacteria reduction with a endcap having a plug wherein at least one wall of the plug is configured “with at least one slot, and wherein the at least one wall flexes when inserted into the at least one opening causing the slot to become smaller”, and wherein “the at least one wall compresses the filler material”. In the Office Action in **Paragraph 3**, the Examiner correctly states that Warner discloses a *resilient cover with a socket*. However, Warner never discloses a slot in the resilient cover which

compresses the socket.

Claim 46 of the present invention contains such a limitation as currently amended and claims 47-49 all contain the limitation by implication. Therefore, the Applicant respectfully argues that claims 46 and 47-49 are all allowable over Warner.

U.S. Patent No. 2,177,504, to Thompson, “Tooth Brush Holder”

Claims 1, 6-9, 19-20, 24-27, and 46-50 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 2,177,504 to Thompson et al. (Hereinafter “Thompson”). Applicants respectfully traverse this rejection because Thompson would not have made it obvious to one skilled in the art at the time of the invention, to make a cosmetic brush with all the claim limitations present in the disclosed invention as currently amended.

One basic criteria to establish a prima facie case of obviousness is that the prior art reference must teach or suggest all the claim limitations of the present invention. Here, the Applicant points out that Thompson does not disclose the limitations present in claims 1, 19, and 46.

First, Thompson does not disclose “[a]n apparatus for resisting the growth and spread of contaminants on a cosmetic brush”, with “a crimp integrally formed from contaminant resistant material, wherein the crimp holds the bristles to the handle portion, and wherein the bristles extend longitudinally from the crimp parallel to the length of the handle portion.” In the Office Action in **Paragraph 4**, the Examiner correctly states that Thompson discloses a *toothbrush* holder. The common understanding of a toothbrush, as well as the description set forth in Thompson, is a brush with bristles that extend substantially perpendicularly from the length of the handle portion.

Claim 1 of the present invention, as currently amended, claims a brush with bristles that extend longitudinally from the crimp parallel to the length of the handle portion, and claims 3,4, and 6-9 all contain this limitation by implication. Therefore, the Applicant respectfully argues that claims 1, 3, 4, and 6-9 are all allowable over Thompson.

Second, Thompson does not disclose an apparatus for bacteria reduction with an endcap

with “at least one outwardly extending protrusion”, wherein “the at least one outwardly extending protrusion makes contact with the inside of the enclosure to ensure that when the cosmetic brush is entirely within the enclosure the cosmetic brush is not in contact with an inner surface of the enclosure.”

In the Office Action under the **Response to Arguments** section, the Examiner states, without any structural evidence from the specification given to verify the assertion, that Thompson is configured such that the brush is not in contact with the inner surface of the enclosure. Since no structural configuration has been disclosed by Thompson, the applicants contend it would not have been obvious to one skilled in the art to configure the Sterilized Toothbrush Container in Thompson with at least one outwardly extending protrusion to ensure that when the cosmetic brush is entirely within the enclosure the cosmetic brush is not in contact with an inner surface of the enclosure.

Claim 19 of the present invention contains such a limitation as currently amended and claims 22 and 24-27 all contain the limitation by implication. Therefore, the Applicant respectfully argues that claims 22 and 24-27 are all allowable over Thompson.

Finally, Thompson does not disclose an apparatus for bacteria reduction with a endcap having a plug wherein at least one wall of the plug is configured “with at least one slot, and wherein the at least one wall flexes when inserted into the at least one opening causing the slot to become smaller”, “and wherein the at least one wall compresses the filler material”. In the Office Action in **Paragraph 4**, the Examiner correctly states that Warner discloses a *resilient cover with a slot*. However, Thompson never discloses wherein the at least one wall flexes when inserted into the at least one opening causing the slot to become smaller”, and wherein “the at least one wall compresses the filler material”.

Claim 46 of the present invention contains such a limitation as currently amended and claims 47-49 all contain the limitation by implication. Therefore, the Applicant respectfully argues that claims 46 and 47-49 are all allowable over Thompson.

Rejections Under 35 U.S.C. § 102(b)

U.S. Patent No. 5,992,617, to Couch, “Painting Implement Keeper”

Claims 1, 3-4, 6-9, 19-20, 22, 24-27, and 46-50 were rejected under 35 U.S.C. § 102(b) as being unpatentable over U.S. Patent No. 5,992,617 to Couch et al. (Hereinafter “Couch”).

Applicants respectfully traverse this rejection because Couch would not have made it obvious to one skilled in the art at the time of the invention, to make a cosmetic brush with all the claim limitations present in the disclosed invention as currently amended.

To anticipate, a reference must teach all the claimed limitations of the present invention. Here, the Applicant points out that Couch does not disclose the limitations present in claims 1, 19, and 46.

First, Couch does not disclose “[a]n apparatus for resisting the growth and spread of contaminants on a cosmetic brush”, with “a crimp integrally formed from contaminant resistant material, wherein the crimp holds the bristles to the handle portion, and wherein the bristles extend longitudinally from the crimp parallel to the length of the handle portion.”

In the Office Action in **Paragraph 5**, the Examiner correctly states that Couch discloses a *paint brush* container. The common understanding of a paint brush, which is not altered by the disclosure is a brush with bristles held in place by crimp, the crimp being a different material than the handle. (i.e. the handle is wooden or plastic, and the crimp is metal).

Claim 1 of the present invention, as currently amended, claims a brush with bristles held by a crimp integrally formed from some contaminant resistant material. Therefore, the Applicant respectfully argues that claims 1, 2-4, and 6-9 are all allowable over Couch since the present invention adds additional claim limitations to further one of the objects of the invention, namely bacteria reduction.

Second, Couch does not disclose an apparatus for bacteria reduction with an endcap with “at least one outwardly extending protrusion”, wherein “the at least one outwardly extending protrusion makes contact with the inside of the enclosure to ensure that when the cosmetic brush is entirely within the enclosure the cosmetic brush is not in contact with an inner surface of the enclosure.”

In the Office Action under the **Response to Arguments** section, the Examiner states, without any structural evidence from the specification given to verify the assertion, that Couch is configured such that the brush is not in contact with the inner surface of the enclosure. Since no structural configuration has been disclosed by Couch, the applicants contend it would not have been obvious to one skilled in the art to configure the Sterilized Toothbrush Container in Couch with at least one outwardly extending protrusion to ensure that when the cosmetic brush is entirely within the enclosure the cosmetic brush is not in contact with an inner surface of the enclosure.

Claim 19 of the present invention contains such a limitation as currently amended and claims 20, 22 and 24-27 all contain the limitation by implication. Therefore, the Applicant respectfully argues that claims 20, 22 and 24-27 are all allowable over Couch.

Finally, Couch does not disclose an apparatus for bacteria reduction with a endcap having a plug wherein at least one wall of the plug is configured “with at least one slot, and wherein the at least one wall flexes when inserted into the at least one opening causing the slot to become smaller”, “and wherein the at least one wall compresses the filler material”. In the Office Action in **Paragraph 3**, the Examiner correctly states that Couch discloses a *resilient cover with a implement holding sleeve*. However, Couch never discloses a endcap “with at least one slot, and wherein the at least one wall flexes when inserted into the at least one opening causing the slot to become smaller”, and wherein “the at least one wall compresses the filler material”

Claim 46 of the present invention contains such a limitation as currently amended and claims 47-49 all contain the limitation by implication. Therefore, the Applicant respectfully argues that claims 46 and 47-49 are all allowable over Couch.

PATENT

Attorney Docket No.: KRYO-00400

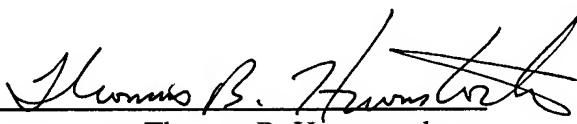
Conclusion

Claims 2, 5, 10-18, 20, 21, 23, and 28-45 have been cancelled. Claims 1, 19, 22, 24-27 and 46-47 are currently being amended. Therefore, claims 1, 3-4, 6-9, 19, 22, 24-27 and 46-49 are pending.

For the reasons given above, applicants respectfully submit that the claims, as amended, are now in a condition for allowance, and allowance at an early date would be appreciated. Should the Examiner have any questions or comments, they are encouraged to call the undersigned at (408) 530-9700 to discuss the same so that any outstanding issues can be expeditiously resolved.

Respectfully submitted,
HAVERSTOCK & OWENS LLP

Dated: November 9, 2006

By: 
Thomas B. Haverstock
Reg. No. 32,571
Attorneys for Applicant(s)

CERTIFICATE OF MAILING (37 CFR § 1.8(a))

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the U.S. Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to the: Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450

HAVERSTOCK & OWENS LLP.

Date: 11-9-06

By: 